

IRS News Release

Media Relations Office
www.irs.gov/newsroom

Washington, D.C.

Media Contact: 202.622.4000
Public Contact: 800.829.1040

National Taxpayer Advocate Reviews Filing Season and Identifies Priority Areas and Challenges in Mid-Year Report to Congress

IR-2017-113, June 28, 2017

WASHINGTON — National Taxpayer Advocate Nina E. Olson today released her statutorily mandated [mid-year report to Congress](#) that presents a review of the 2017 Filing Season, identifies the priority issues the Taxpayer Advocate Service (TAS) will address during the upcoming fiscal year, and contains the IRS's responses to each of the 93 administrative recommendations the Advocate made in her 2016 Annual Report to Congress.

In her preface to the report, Ms. Olson praises the IRS for running a generally successful filing season, including reducing the incidence of identity theft, implementing new accelerated Form W-2 reporting requirements, and matching Forms W-2 against tax returns claiming refunds. But Ms. Olson says taxpayers who require assistance from the IRS are continuing to face significant challenges obtaining it. She attributes part of the problem to resource constraints, saying that IRS funding has been reduced by nearly 20 percent since fiscal year (FY) 2010, after adjusting for inflation.

While taxpayer services and enforcement activities are both essential for effective tax administration, Ms. Olson says taxpayer services require more emphasis than they are currently receiving. She points out that more than 60 percent of the IRS budget is allocated to enforcement activities while only about 4 percent is allocated for taxpayer outreach and education. The report elaborates on taxpayer service limitations, particularly involving outreach and education:

As of September 30, 2016, the IRS dedicated only 98 employees to conducting education and outreach to the 62 million small business and self-employed taxpayers, and only 365 employees to conducting education and outreach to the nearly 125 million individual taxpayers. There are 14 states that have *no* Stakeholder Liaison employees who conduct outreach to small business and self-employed taxpayers. The number of Taxpayer Assistance Centers [TACs] is declining each year, and because of the IRS's new *appointment-only* system, taxpayers who show up without an appointment are routinely turned away. The TACs have completely stopped offering free tax preparation for low income, elderly, and disabled taxpayers and . . . [they] will not answer "out-of-scope" tax law questions during the filing season and will not answer *any* tax law questions outside the filing season.

Ms. Olson recommends that the IRS expand its outreach and education activities and improve its telephone service and that Congress provide the IRS with sufficient funding to do so.

Overview of the Filing Season

The report says the IRS delivered a generally successful filing season in 2017. The IRS processed nearly 130 million returns, about 90 percent of which were filed electronically. Seventy-five percent of the returns resulted in refunds, and the average refund amount was \$2,763. The IRS successfully implemented several provisions of the Protecting Americans from Tax Hikes Act of 2015, which directed the IRS to delay paying refunds until February 15 to taxpayers claiming either the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit and required the IRS to deactivate Individual Taxpayer Identification Numbers (ITINs) based on age of issuance and non-use.

During Filing Season (FS) 2017, the IRS answered 79 percent of the telephone calls it received on its “Account Management” (AM) telephone lines that were routed to telephone assistors. That is up from 72 percent during FS 2016. In addition, the time these taxpayers spent on hold declined from 11.1 minutes in FS 2016 to 6.5 minutes in FS 2017. Thus, taxpayers generally were better served on the AM telephone lines.

However, taxpayer service was less successful in other areas. The IRS compliance telephone lines, which are not included in the AM category, showed significant declines. Of note, the IRS received about 2.7 million calls on its “Installment Agreement/Balance Due” line. “For the most part, these calls come from taxpayers who are seeking to make payment arrangements – the sort of calls most private businesses would pick up immediately,” the report says. Yet the IRS answered only 40 percent of these calls during FS 2017 (down from 76 percent in FS 2016), and wait times increased from 11 minutes in FS 2016 to a staggering 47 minutes in FS 2017.

Moreover, despite answering a higher *percentage* of calls on its AM telephone lines, IRS telephone assistors actually answered 25 percent *fewer* calls during FS 2017 as compared with FS 2016. That occurred because taxpayer calls routed to AM telephone assistors declined by even more – 32 percent. Had IRS telephone assistors received the same number of calls during FS 2017 as they received during FS 2016, they would have answered only 54 percent of taxpayer calls (rather than 79 percent). Therefore, while the uptick in the percentage of AM calls answered was welcome news this year, the report cautions that the IRS has not necessarily turned the corner in strengthening its telephone service. The report also notes that the FY 2018 budget proposal for the IRS projects the agency *will answer only 39 percent of taxpayer calls routed to telephone assistors next year.*

During FS 2017, the IRS implemented a policy that, for the first time, requires taxpayers to schedule appointments in advance of visiting any of the IRS’s 376 Taxpayer Assistance Centers to receive face-to-face service. The TACs, which previously were known as “walk-in” sites, have now been transformed into “appointment-only” sites. In response to complaints from TAS and others, the IRS has given TAC managers the discretion to make exceptions to the policy, but the general rule continues to require advance appointments.

This year, the IRS has continued a policy originally adopted in 2014 that sharply limits the authority of IRS employees to answer tax law questions. IRS employees are restricted to answering “basic” questions during the filing season and are restricted from answering any tax law questions outside the filing season. The report says that answering taxpayer questions about how to comply with the law should be viewed as a core function of tax administration.

Priority Issues for FY 2018

The report identifies and discusses 13 priority issues the Office of the Taxpayer Advocate plans to focus on during the upcoming fiscal year. Among them are the following:

- **Private Debt Collection Implementation.** This spring, the IRS began assigning delinquent taxpayer accounts to private collection agencies (PCAs). TAS reviewed the accounts of taxpayers whose debts had been assigned to PCAs through May 17 and who had filed tax returns for 2014 or later. It found that 23 percent reported incomes below the federal poverty level, and 53 percent reported incomes below 250 percent of the federal poverty level, which is the threshold of “low income” Congress adopted for purposes of obtaining assistance from a Low Income Taxpayer Clinic. Among the elderly, the median income shown on recent returns filed by taxpayers who received Social Security retirement benefits in 2016 was less than \$13,200.

The Advocate remains concerned that PCAs will pressure taxpayers who cannot afford to pay into doing so. When the IRS itself is collecting unpaid taxes, it is authorized to perform a financial analysis of a taxpayer’s ability to pay, and it does not collect from taxpayers where its financial analysis shows doing so would impose a financial hardship. However, PCAs are not authorized to perform a financial analysis, and the IRS has not authorized them to collect financial information from taxpayers that could be turned over to the IRS for analysis. Because PCAs are paid a percentage of what they collect, there is a financial incentive for them to pressure even low income taxpayers from whom the IRS ordinarily would not collect to make payments.

The statute governing the program requires the IRS to assign cases to PCAs that the IRS itself is not working and that are contained in “potentially collectible inventory.” However, the statute does not define the term “potentially collectible inventory.” To protect low income senior citizens, the Advocate has previously recommended the IRS adopt a definition that would exclude recipients of Social Security retirement benefits with incomes below 250 percent of the federal poverty level.

The report says the IRS allowed TAS personnel to listen to a sample of PCA telephone calls during the 2006-2009 iteration of the program and initially agreed to do so this spring. However, the IRS recently informed TAS it has changed its position and will not allow TAS personnel to listen to calls. The report says that if TAS is prohibited from listening to a random sample of calls between the PCAs and taxpayers, it will not be able to determine whether the PCAs are complying with taxpayer rights to the extent required by law. Moreover, the IRS has declined to require all PCA employees working taxpayer cases to watch a [training video](#) taped by the National Taxpayer Advocate on protecting taxpayer rights.

During FY 2018, TAS will take additional steps to ensure the protection of taxpayer rights under the program and will advocate to exclude Social Security recipients with incomes below 250 percent of the federal poverty level from assignment to PCAs.

- **U.S. Passport Revocations and Denials.** Legislation passed by Congress in 2015 requires the Department of State (DOS) to deny an individual’s passport application

and allows the DOS to revoke or limit an individual's existing passport if the IRS certifies the individual has a "seriously delinquent" tax debt. The law provides an exception allowing the DOS to issue a passport to a certified individual in emergency circumstances or for humanitarian reasons. TAS is actively monitoring the implementation of this requirement because of the risk of extreme harm if the IRS or DOS makes a transcription error or a taxpayer is not given adequate notice of a passport denial or revocation, which could happen while the taxpayer is outside the United States.

TAS is concerned that the IRS does not plan to notify taxpayers of its intent to certify their tax debts as "seriously delinquent" until the certification is taking place. The U.S. Supreme Court has held that the right to travel, including international travel, "is a part of the 'liberty' of which the citizen cannot be deprived without due process of law under the Fifth Amendment." (*Kent v. Dulles*, 357 U.S. 116, 125-126 (1958).) The report says that revoking a taxpayer's passport without providing an additional stand-alone notice of intent to do so raises legitimate questions about whether the government has complied with the U.S. Constitution's due process requirements. Apart from the questionable legality of failing to provide advance notice, the report points out that advance notice of a certification that will lead to denial or revocation of a passport is likely to cause many taxpayers to resolve their debts, thereby sparing both the taxpayer and the government from the bureaucratic hassle of revoking and then reinstating a passport.

During FY 2018, TAS will take steps to address these concerns systemically, and will help affected taxpayers resolve their seriously delinquent tax debts and obtain reversals of certifications in a timely manner, where appropriate.

- **Transparency in the Offshore Voluntary Disclosure Programs.** TAS continues to have concerns about the transparency of the IRS's Offshore Voluntary Disclosure Programs (OVDPs). These programs are largely governed by a series of Frequently Asked Questions (FAQs) posted on the IRS website. However, the IRS generally does not disclose the legal guidance underlying the FAQs, leaving taxpayers and their representatives with insufficient information about how to interpret ambiguous answers. In analyzing the programs, TAS reviewed a sample of ten items of undisclosed advice about FAQs issued between March 1, 2016 and March 8, 2017. According to the IRS, the undisclosed documents had not been checked or reviewed by any disclosure experts to determine whether they should be disclosed, yet they contained substantial information that would be helpful for taxpayers and their representatives.

The IRS is also objecting to the release of aggregate data that would give Congress, taxpayers, and their representatives a better feel for the how the programs are operating and a range of results they may expect. In the past, both TAS and the Government Accountability Office (GAO) have computed and publicly reported aggregate data, such as the average or median tax, interest, and penalties paid by taxpayers inside and outside the OVDP. The IRS is now objecting to the release of such data, asserting that TAS should not publish any data points more detailed "than those provided by the Commissioner in press releases."

"I find the IRS's objection to our publication of aggregate data on OVDP outcomes

deeply disturbing,” Ms. Olson said in releasing the report. “Conceptually, if the IRS is able to limit the release of data to what it includes in press releases, there would be no meaningful Taxpayer Advocate reports, no GAO reports, and no TIGTA reports, and the Freedom of Information Act would become a dead letter. Practically, the IRS has not argued any harm has arisen from the prior release of the same data points to which it is currently objecting. Practitioners have expressed considerable frustration with the OVDPs, where auditors make case-by-case decisions based on nonbinding FAQs that the IRS may withdraw or change at any time, and have complained that outcomes often seem arbitrary and unpredictable. The public deserves access to aggregate data on average outcomes, and we don’t believe any exemption under FOIA entitles the IRS to withhold it.”

During FY 2018, TAS will continue to advocate for the IRS to disclose all OVDP-related rules and procedures along with any legal interpretations of them and advocate for the IRS to disclose detailed summary statistics for the ODVP and streamlined programs so taxpayers have a better sense of likely outcomes.

- **Other Priority Issues.** Other priority issues the Taxpayer Advocate Service plans to focus on during FY 2018 include the IRS’s approach to international tax administration; the advantages and disadvantages of the IRS’s heavy emphasis on online taxpayer accounts; options to improve the administration of the EITC; tax compliance barriers for ITIN holders; the inadequacy of the IRS’s Allowable Living Expense standards; the IRS’s policies regarding levies on retirement accounts; the IRS’s continuing efforts to combat tax-related identity theft; taxpayer challenges in complying with the Affordable Care Act; lack of specificity in third-party contact notices; and the IRS’s continuing information technology challenges, particularly in developing an enterprise-wide case management system.

Volume 2: IRS Responses to Taxpayer Advocate Recommendations

The National Taxpayer Advocate is required by statute to submit a year-end report to Congress that, among other things, describes at least 20 of the most serious problems facing taxpayers and makes administrative recommendations to mitigate those problems. The report released today includes a second volume containing the IRS’s general responses to each of the problems the Advocate identified in her 2016 year-end report as well as specific responses to each recommendation. In addition, it contains TAS’s analysis of the IRS’s responses and, in some cases, details TAS’s disagreement with the IRS’s position.

Overall, the Advocate made 93 administrative recommendations in her 2016 year-end report, and the IRS has implemented or agreed to implement 35 of the recommendations, or 38 percent. The agreed implementation rate is lower than last year’s. Out of 116 administrative recommendations proposed in the Advocate’s 2015 year-end report, the IRS implemented or agreed to implement 65 of the recommendations, or 56 percent.

“Both people who work in the field of tax administration and taxpayers generally can benefit greatly from reading the agency responses to our report,” Ms. Olson said. “Tax administration is a complex field with many trade-offs required. Reading both my office’s critique and IRS’s responses in combination will provide readers with a broader perspective

on key issues, the IRS’s rationale for its policies and procedures, and alternative options TAS recommends.”

* * * * *

The National Taxpayer Advocate is required by statute to submit two annual reports to the House Committee on Ways and Means and the Senate Committee on Finance. The statute requires these reports to be submitted directly to the Committees without any prior review or comment from the Commissioner of Internal Revenue, the Secretary of the Treasury, the IRS Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget. The first report must identify the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year. The second report must discuss at least 20 of the most serious problems encountered by taxpayers, identify the ten tax issues most frequently litigated in the courts, and make administrative and legislative recommendations to resolve taxpayer problems.

ABOUT THE TAXPAYER ADVOCATE SERVICE

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit TaxpayerAdvocate.irs.gov or call 1-877-777-4778. For more information, go to TaxpayerAdvocate.irs.gov or irs.gov/advocate. You can get updates on tax topics at facebook.com/YourVoiceAtIRS, Twitter.com/YourVoiceatIRS, and YouTube.com/TASNTA.

Related Items:

- [Mid-Year Report](#)
- Tax Toolkit: www.TaxpayerAdvocate.irs.gov